

BEFORE THE  
**Federal Communications Commission**  
WASHINGTON, D.C.

ORIGINAL

In the Matter of )  
 )  
Implementation of Sections 3(n) ) GN Docket No. 93-252  
and 332 of the Communications Act )  
 )  
Regulatory Treatment of Mobile Services )

**COMMENTS OF AMERICAN MOBILE SATELLITE CORPORATION**

American Mobile Satellite Corporation ("AMSC") hereby comments on the Second Further Notice of Proposed Rule Making ("Second Further NPRM") issued in the above-referenced proceeding.<sup>1/</sup> In the Second Further NPRM, the Commission seeks comments on whether non-equity interests should be attributable for purposes of applying spectrum caps to Commercial Mobile Radio Service ("CMRS") providers, if such caps are adopted.<sup>2/</sup> As discussed below, resale and joint marketing agreements entered into by Mobile Satellite Service ("MSS") providers should not be included for purposes of calculating a CMRS spectrum cap. MSS is a new service. Its successful development will add to the

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<sup>1/</sup> Second Further Notice of Proposed Rule Making, GN Docket No. 93-252, FCC 94-191 (July 20, 1994).

<sup>2/</sup> In its initial filing in this docket, AMSC opposed the application of spectrum caps to MSS providers. Comments of American Mobile Satellite Corporation, GN Docket No. 93-252 (June 20, 1994). AMSC demonstrated that satellite spectrum is unique in that it must be shared not only with other domestic service providers, but also must be coordinated internationally, a process which typically results in less spectrum being available to the domestic licensee. In addition, AMSC showed that no CMRS provider is using or will be able to use satellite spectrum to exert market power.

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competitive market for mobile communications. Any restrictions on the distribution of this new service are unnecessary and would significantly hinder its development.

AMSC is the parent corporation of AMSC Subsidiary Corporation, which has been licensed by the FCC to construct, launch and operate the U.S. MSS-AMS(R)S system. MSS will make mobile communications available for the first time to rural and remote of the United States that have largely been ignored by the wireless revolution. The first satellite and the ground segment are under construction, and the system is expected to be operational next year. AMSC's owners have committed significant resources to the success of the AMSC system, which is expected to cost more than \$600 million.

With service availability less than one year away, AMSC is focusing its efforts and resources on arranging for distribution of the new service. To date, AMSC has signed marketing or resale agreements with more than 160 companies, including 155 cellular licensees, which will serve as agents for AMSC's enhanced roaming service.<sup>3/</sup> As agents for AMSC, and in return for a commission based on their customers' monthly bill, the cellular carriers will sell and install dual-mode cellular/satellite phones, activate the service, provide customer service and bill the monthly charges (the rates for which are established by AMSC).

Resellers of AMSC's service include IDB Mobile Communications, a leading provider of mobile satellite services,

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<sup>3/</sup> The enhanced roaming service allows cellular customers to communicate through the AMSC system when they are out of range of terrestrial cellular systems.

and Maritime Cellular, Inc., which provides communications services to the maritime community. These companies are buying service from AMSC in bulk, and repackaging the service for sale to their own customers.

AMSC opposes the inclusion of resale agreements, joint marketing agreements or similar arrangements as attributable interests in applying any general CMRS cap for MSS providers that may be established. With respect to its cellular carrier agents, marketing AMSC services is not a large part of their business and AMSC is concerned that should the FCC attribute MSS spectrum to cellular licensees, these carriers would not market MSS if doing so might risk their ability to get into other wireless opportunities such as PCS. With respect to resale arrangements, AMSC supports the Commission's position that resale arrangements should not be considered attributable interests because the reseller cannot exercise effective control over the spectrum on which it provides service or reduce the amount of service provided over that spectrum. Such anti-competitive actions would only cause other resellers to enter the market. Second Further NPRM, para 13.

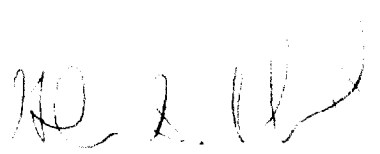
The high cost and risk associated with the construction and launch of an MSS system make it imperative that a regulatory structure be in place that encourages distribution of the new service. AMSC must be able to enter into resale and marketing agreements with as many entities as possible to ensure the widest availability of the service. Moreover, as discussed in the Second Report and Order, 9 FCC Rcd 1411 (1994), in this docket,

CMRS providers of MSS have been found to lack market power, and, as such, there can be no public interest benefit to limiting the kinds of arrangements which they must enter into to distribute their services.

Accordingly, the Commission should not include resale, joint marketing or similar agreements within any spectrum cap that might be adopted for CMRS providers of MSS.

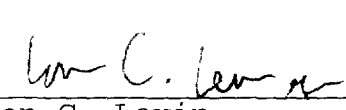
Respectfully submitted,

**AMERICAN MOBILE SATELLITE CORPORATION**



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Dated: August 9, 1994

CERTIFICATE OF SERVICE

I, Leslie Anne Byers, hereby certify that I have this 9th day of August, 1994, caused to be hand delivered copies of the foregoing "**COMMENTS OF AMERICAN MOBILE SATELLITE CORPORATION**" to the following:

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